

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X Index No.: 20-CV-6159  
NAVIGATOR BUSINESS SERVICES LLC,

Plaintiff,

-against-

**ANSWER WITH  
COUNTERCLAIM**

AIGUANG CHEN AND JIN WU YU,

(Jury Demanded)

Defendants,  
-----X

Defendants Aiguang Chen and Jin Wu Yu by and through their attorney Bill Zou & Associates PLLC, answering the Complaint (the “Complaint”) herein, respectfully allege:

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “1” of the Complaint.
2. Admits the allegations contained in paragraphs numbered “2” of the Complaint.
3. Admits the allegations contained in paragraphs numbered “3” of the Complaint
4. Denies each and every allegation contained in paragraphs numbered “4” of the Complaint.
5. Denies each and every allegation contained in paragraphs numbered “5” of the Complaint.
6. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “6” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Loan Agreement.

7. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “7” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Loan Agreement.

8. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “8” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Loan Agreement.

9. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “9” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Promissory Note.

10. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “10” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Promissory Note.

11. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “11” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Promissory Note.

12. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “12” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Promissory Note.

13. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “13” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Promissory Note.

14. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “14” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Guarantees.

15. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “15” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Guarantees.

16. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “16” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Guarantees.

17. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “17” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Security Agreements.

18. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “18” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Security Agreements.

19. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “19” of the Complaint to the extent the Court and Plaintiff are respectfully referred to the underlying Security Agreements.

20. Denies each and every allegation contained in paragraph “20” to the extent that certain payments were made and certain payments were not made.

21. Denies each and every allegation contained in paragraph “21” of the Complaint.

22. Denies each and every allegation contained in paragraph “22” of the Complaint.

23. Denies each and every allegation contained in paragraph “23” of the Complaint.

24. Paragraph “24” of the Complaint does not require a response.

25. Denies each and every allegation contained in paragraph “25” of the Complaint.

26. Denies each and every allegation contained in paragraph “26” of the Complaint.

27. Denies each and every allegation contained in paragraph “27” of the Complaint.

28. Paragraph “28” of the Complaint does not require a response.

29. Denies each and every allegation contained in paragraph “29” of the Complaint to the extent the Court and the Plaintiff are respectfully referred to the underlying Guaranty.

30. Denies each and every allegation contained in paragraph “30” of the Complaint.

31. Denies each and every allegation contained in paragraph “31” of the Complaint.

32. Denies each and every allegation contained in paragraph “32” of the Complaint.

33. Paragraph “33” of the Complaint does not require a response.

34. Denies each and every allegation contained in paragraph “34” of the Complaint.

35. Denies each and every allegation contained in paragraph “35” of the Complaint.

36. Denies each and every allegation contained in paragraph “36” of the Complaint.

37. Denies each and every allegation contained in paragraph “37” of the Complaint.

38. Denies each and every allegation contained in paragraph “38” of the Complaint.

39. Paragraph “39” of the Complaint does not require a response.

40. Denies each and every allegation contained in paragraph “40” of the Complaint.

41. Denies each and every allegation contained in paragraph “41” of the Complaint.

42. Denies each and every allegation contained in paragraph “42” of the Complaint.

43. Paragraph “43” of the Complaint does not require a response.

44. Denies each and every allegation contained in paragraph “44” of the Complaint.

45. Denies each and every allegation contained in paragraph “45” of the Complaint.

46. Denies each and every allegation contained in paragraph “46” of the Complaint.
47. Denies each and every allegation contained in paragraph “47” of the Complaint.
48. Denies each and every allegation contained in paragraph “48” of the Complaint.
49. Paragraph “43” of the Complaint does not require a response.
50. Denies each and every allegation contained in paragraph “50” of the Complaint.
51. Denies each and every allegation contained in paragraph “51” of the Complaint.
52. Denies each and every allegation contained in paragraph “52” of the Complaint.
53. Denies each and every allegation contained in paragraph “53” of the Complaint.
54. Paragraph “54” of the Complaint does not require a response.
55. Denies each and every allegation contained in paragraph “55” of the Complaint.
56. Denies each and every allegation contained in paragraph “56” of the Complaint.
57. Denies each and every allegation contained in paragraph “57” of the Complaint.
58. Paragraph “58” of the Complaint does not require a response.
59. Denies each and every allegation contained in paragraph “59” of the Complaint.
60. Denies each and every allegation contained in paragraph “60” of the Complaint.
61. Denies each and every allegation contained in paragraph “61” of the Complaint.
62. Denies each and every allegation contained in paragraph “62” of the Complaint.
63. Paragraph “63” of the Complaint does not require a response.
64. Denies each and every allegation contained in paragraph “64” of the Complaint.
65. Denies each and every allegation contained in paragraph “65” of the Complaint.
66. Denies each and every allegation contained in paragraph “66” of the Complaint.
67. Denies each and every allegation contained in paragraph “67” of the Complaint.
68. Denies each and every allegation contained in paragraph “68” of the Complaint.

- 69. Paragraph “69” of the Complaint does not require a response.
- 70. Denies each and every allegation contained in paragraph “70” of the Complaint.
- 71. Denies each and every allegation contained in paragraph “71” of the Complaint.
- 72. Denies each and every allegation contained in paragraph “72” of the Complaint.
- 73. Paragraph “73” of the Complaint does not require a response.
- 74. Denies each and every allegation contained in paragraph “74” of the Complaint.
- 75. Denies each and every allegation contained in paragraph “75” of the Complaint.
- 76. Denies each and every allegation contained in paragraph “76” of the Complaint.
- 77. Denies each and every allegation contained in paragraph “77” of the Complaint.
- 78. Denies each and every allegation contained in paragraph “78” of the Complaint.
- 79. Paragraph “79” of the Complaint does not require a response.
- 80. Denies each and every allegation contained in paragraph “80” of the Complaint.
- 81. Denies each and every allegation contained in paragraph “81” of the Complaint.
- 82. Denies each and every allegation contained in paragraph “82” of the Complaint.
- 83. Denies each and every allegation contained in paragraph “83” of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

84. All the underlying loan documents, including but not limited to, the Loan Agreement, the Promissory Note, the Guarantees, the Security Agreements all provide the governing law is “the laws of the State of New Jersey, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law” and that “(i)n the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in New Jersey, unless otherwise required by law”.

Accordingly, this Court lacks jurisdiction, is not the stipulated forum, venue or place of jurisdiction.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

85. This action is clearly a circumvention of New York State Governor Cuomo's Executive Orders prohibiting initiation of commercial foreclosure action through February 26, 2021, it should be dismissed.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

86. Plaintiff's Complaint must be dismissed as it violates Executive Order 202.28, as extended by Executive Order 202.48, Executive Order 202.57, Executive Order 202.64 and Executive Orders 202.70, 202.81 and 202.92 which prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage through February 26, 2021.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

87. Plaintiff failed to join a necessary party, SH 168 LLC, the Borrower referred to in the Complaint.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

88. Plaintiff failed to accelerate the loan by failing to provide any notice.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

89. Plaintiff acted in bad faith and with unclean hands by inducing the Borrower and Defendants to enter into two forbearance agreements, inducing them to make substantial payments, represented to the Borrower and the Defendants that it has signed the forbearance agreement but failed and refused to provide the Borrower and the Defendants fully signed

forbearance agreements, and subsequently claimed the Borrower defaulted the loan and started to charge usurious interest rate and unconscionable fees.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

90. Plaintiff is barred by the doctrine of unclean hands.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

91. Plaintiff failed to provide proper predicate notice for the instant action.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

92. Plaintiff has failed to state a claim upon which relief can be granted.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

93. Any loan documents executed on the part of the Defendants were procured by fraud, duress, or coercion, and invalid.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

94. Defendants have been the victim of a mortgage fraud.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

95. Lack of standing: Plaintiff, upon information and belief, does not own the note and mortgage. Plaintiff therefore does not have standing to sue because it was not the legal owner of the note and/or mortgage at the time it commenced this foreclosure lawsuit.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

96. Notice of default: Plaintiff failed to comply with the requirements for the notice of default in the underlying mortgage loan agreement, a condition precedent to this action.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**



97. Plaintiff has unreasonably asserted default interests causing excessive interest to accrue which the Court may reduce or toll, as a matter of equity and by operation of the CPLR of the State of New York.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

98. Plaintiff has failed to negotiate in good faith. This failure to negotiate in good faith has caused excessive interest and fees to accrue which Plaintiff, as a matter of equity and by operation of the law, is not entitled to recover.

**AS AND FOR A FIRST COUNTERCLAIM**

99. This action was brought in bad faith, Defendants are entitled to recover attorney's fees in defending this action.

WHEREFORE, the Defendants demand judgment dismissing the Complaint of the Plaintiff, awarding Defendants legal fees and costs on their Counterclaim and granting such further and other relief as the Court deems just and proper.

Dated: Queens, New York  
February 16, 2021

BILL ZOU & ASSOCIATES PLLC

/s/ William X. Zou

---

By: William X. Zou, Esq.  
Attorney for Defendants  
136-20 38<sup>th</sup> Avenue, Suite 10D  
Flushing, NY 11354  
(718) 661-9562